

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BARBARA LODER HILDEBRANDT,)
Plaintiff,)
vs.) Case No. C-1-02 0003
HYATT CORPORATION, et al.) Judge Sandra Beckwith
Defendants.) ORAL ARGUMENT REQUESTED
)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants HYATT CORPORATION (“Hyatt”), TY HELMS (“Helms”), BRIAN J. BOOTH (“Booth”) and JACK HORNE (“Horne”), by and through their undersigned counsel, and pursuant to Federal Rule of Civil Procedure (“Fed.R.Civ.P.”) 56 and S.D. Ohio Civ. R. 7.2, file this Motion for Summary Judgment, and state as follows:

1. In or about November 2001, Plaintiff Barbara Loder Hildebrandt (“Plaintiff”) filed a Complaint and Amended Complaint in the Hamilton County Court of Common Pleas.
2. Defendants removed the action to this Court.
3. Plaintiff’s Amended Complaint contains allegations of gender and age discrimination under Ohio Rev. Code Chapter 4112 and breach of Ohio public policy against Booth, Helms, and Hyatt.
4. Plaintiff subsequently filed a Complaint in this Court, Case No. C-01-464, against Horne and Hyatt, alleging breach of public policy and age and gender discrimination under Ohio Rev. Code Chapter 4112 against Horne and Title VII age and gender discrimination against Hyatt.

5. On or about December 20, 2002, this Court granted Plaintiff's Motion to Consolidate this case and Case No. C-01-464, consolidating the two cases into one case for all purposes.

6. The discovery period has ended.

7. Summary judgment is warranted if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show no genuine issue exists as to any material fact and that the moving party is entitled to judgment as a matter of law. *See Fed.R.Civ.P. 56(c),*

8. Because Plaintiff has not presented evidence that creates genuine issues of material fact as to her claim she was subject to age and gender discrimination at the hands of any of the Defendants or that any of the Defendants breached Ohio's public policy, summary judgment in favor of all Defendants is appropriate as a matter of law.

9. First, Plaintiff's claims under Title VII and the ADEA based on her allegedly denied promotions are time-barred.

10. Also, Plaintiff cannot establish *prima facie* cases of discrimination based on allegedly denied promotions or based on the elimination of her position as a result of a reduction in force.

11. Even if Plaintiff could establish *prima facie* cases of discrimination, she cannot establish that any decisions made with regard to her employment were pretext for discrimination.

12. Further, Plaintiff cannot establish liability as to the individual Defendants.

13. Accordingly, as more fully set forth below in Defendants' Memorandum of Law in Support of Motion for Summary Judgment, and the attached exhibits, which are being filed concurrently with this Motion, because no genuine issues of material fact exist as to any of Plaintiff's claims, summary judgment in favor of all Defendants is appropriate as a matter of law.

14. Defendants respectfully request oral argument with regard to their Motion for Summary Judgment, due to the factual complexity of the issues involved.

DATED this 1st day of March, 2004.

Respectfully submitted,

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 1, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Stanley M. Chesley and Robert Steinberg, Waite, Schneider, Bayless, & Chesley Co., L.P.A., 1513 Central Trust Tower, Cincinnati, Ohio, 45202.

s/Jeffrey J. Harmon
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